

Commonwealth of Massachusetts

SUFFOLK, ss.



SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION

No. 2484CV00501

JUSTIN FORKUO

, Plaintiff(s)

v.

AUTO DAMAGE APPRAISER LICENSING BOARD

, Defendant(s)

DIVISION OF INSURANCE

MAR 20 2024

RECEIVED

SUMMONS

Auto Damage Appraiser Licensing Board
1000 Washington Street, Suite 810

To the above-named Defendant: Boston, MA 02118-6200

You are hereby summoned and required to serve upon Jacob P. Morris, Esquire

plaintiff's attorney, whose address is 333 Park Avenue, Worcester, MA 01610, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Judith Fabricant, Esquire, at Boston, the 12th day of March, in the year of our Lord two thousand twenty-four.

A true copy Attest:

3-20-24

Deputy Sheriff Suffolk County

Michael Joseph Donovan

Clerk/Magistrate

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED
(1) TORT — (2) MOTOR VEHICLE TORT — (3) CONTRACT — (4) EQUITABLE RELIEF — (5) OTHER

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on _____, 201____, I served a copy of the within summons, together with a copy of the complaint in this action, upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5):

Dated: _____, 201____.

N.B. TO PROCESS SERVER: -

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN
THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

_____, 201 .

Commonwealth of Massachusetts

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION
No. 2484CV00501

JUSTIN FORKHO

, Plff(s).

v.

AUTO DAMAGE APPRAISER LICENSING BOARD , Deft(s).

SUMMONS

(Mass. R. Civ. P. 4)

(AFFIX FILING STAMP HERE)

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
DOCKET NO:

JUSTIN FORKUO
Plaintiff

V.

**AUTO DAMAGE APPRAISER
LICENSING BOARD**
Defendant

Parties

1. The Plaintiff, Justin Forkuo, is an individual residing at 1 Stowell Street, Worcester, Massachusetts.
2. The Defendant, Auto Damage Appraiser Licensing Board (hereinafter "ADALB") is an administrative agency with its main office at 1000 Washington Street, Suite 810, Boston, Massachusetts.

3. The Plaintiff is aggrieved from a decision of the ADALB to revoke his Auto Damage Appraiser License after hearing on October 23, 2023. A copy of the decision is attached at Exhibit "A".
4. The ADALB's decision is dated October 30, 2023, however the ADALB never informed Mr. Forkuo, or his counsel, of his right to appeal. He was not informed of his appellate rights at the hearing or in the written decision.
5. Mr. Forkou, through counsel, asked for a new hearing and/or reconsideration on December 12, 2023. That request was denied, by way of email communication on January 23, 2024 (See correspondence attached as Exhibit "B").
6. **This Complaint is being filed within 30 days of that denial and within 30 days of being informed by the ADALB of Mr. Forkuo's right to appeal.**

Count I
(ARBITRARY, CAPRICIOUS AND CONTRARY TO LAW)

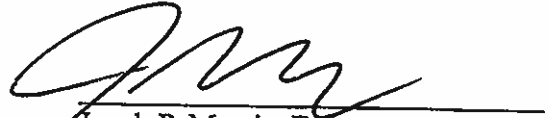
7. Mr. Forkuo's business, 290 Auto Body, Inc., was sued by an insurance company (Preferred Mutual Insurance Co.) in Worcester Superior Court in 2018. That case went to bench trial in 2022. Superior Court Judge Gavin Reardon found for the Plaintiff, Preferred Mutual, on multiple counts including M.G.L. Ch. 93A. As Mr. Forkuo was not a party to the case, the judgment was against 290 Auto Body, Inc. only.
8. Judge Gavin Reardon found that 290 Auto Body, Inc. was deceitful in its dealing with Preferred Mutual, as a result of billing practices related to a vehicle that was considered a total loss shortly after arriving at 290 Auto Body, Inc. Preferred Mutual alleged that the storage charges, gate fees, and hourly rates were excessive. The Judge agreed.
9. At NO TIME did Preferred Mutual allege 290 Auto Body, Inc. (or Mr. Forkuo) did anything unlawful or nefarious with regard to APPRAISING the vehicle. In fact, no appraisal was performed by Mr. Forkuo or 290 Auto Body, Inc.
10. The ADALB hangs their hat on the Superior Court Findings relative to the M.G.L. Ch. 93A count, which of course reference deceitful conduct by 290 Auto Body, Inc. They believe they have the authority to revoke his appraiser's license based on these findings against 290 Auto Body, Inc., *which have absolutely nothing to do with appraisal work.*
11. The ADALB is incorrect, and M.G.L. Ch. 26 Sec. 8G is directly on point –

The board, after due notice and hearing, shall revoke any license issued by it and cancel the registration of any person who pleads guilty to or is convicted of a fraudulent *automobile damage report* as a result of a court judgment and said license shall not be reinstated or renewed nor shall said person be relicensed. The board, after due notice and hearing, shall cancel the registration of, any person who has been shown at such hearing to have been guilty of fraud, deceit, gross negligence, incompetence or misconduct or conflict of interest in the preparation or completion of a *motor vehicle damage report*. Id (emphasis added).

12. The civil trial and resulting findings against 290 Auto Body, Inc. have absolutely nothing to do with motor vehicle damage reports or appraisals. The ADALB decision to revoke Mr. Forkuo's license was arbitrary and contrary the only Massachusetts statute addressing their authority to revoke licenses.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court issue an order reinstating Mr. Forkuo's Auto Damage Appraiser License or, in the alternative, remanding this matter for further hearing at the ADALB.

The Plaintiff,
By his attorney



Jacob P. Morris, Esq.
RUBIN & MORRIS, P.C.
333 Park Avenue
Worcester, MA 01610
(508) 791-5541
BBO No 652275
jmorris@rrwlaw.com

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on this 21st day of February 2024 he served a true copy of Plaintiff's Complaint for Judicial Review (with exhibits A-B) by First Class Mail on all interested parties named below:

Mr. Michael Donovan, Chairman
Auto Damage Appraiser Licensing Board
1000 Washington Street, Suite 810
Boston, MA 02118

Michael D. Powers, Esq.
Counsel to the Commissioner
Auto Damage Appraiser Licensing Board
1000 Washington Street, Suite 810
Boston, MA 02118

Date: 2-21-24



Jacob P. Morris, Esq.

EXHIBIT A



**THE COMMONWEALTH OF MASSACHUSETTS
AUTO DAMAGE APPRAISER LICENSING BOARD**

1000 Washington Street • Suite 810 • Boston, MA 02118-6200
(617) 521-7794 • FAX (617) 521-7475
TTY/TDD (617) 521-7490
<http://www.mass.gov/doi>

Maura Healey
GOVERNOR

Kim Driscoll
LIEUTENANT GOVERNOR

MICHAEL DONOVAN
CHAIRMAN

WILLIAM E. JOHNSON
PETER SMITH
CARL GARCIA
VICKY W. YE

October 30, 2023

Mr. Justin Forkuo
Via email: claims@290autobody.com

Re: Revocation of Massachusetts Motor Vehicle Damage Appraiser License

Dear Mr. Forkuo:

On October 23, 2023, you and your attorney, Jacob P. Morris, appeared before the Auto Damage Appraiser Licensing Board (ADALB or Board) at a hearing to review the potential revocation of your motor vehicle damage appraiser license based on FINDINGS OF FACTS and CONCLUSIONS OF LAW made by Associate Superior Court Justice A. Gavin Reardon Jr., (Judge Reardon) in the case of Preferred Mutual Insurance Company v. 290 Auto Body, Inc. Civil Action 18-01813, (Worcester Superior Court). Judge Reardon found that you committed fraud, deceit, and made several misrepresentations, while demanding and receiving substantial payments of money your company and you were not entitled to from Preferred Mutual Insurance Company. The payments were demanded under a private passenger motor vehicle insurance policy for repairs to a damaged motor vehicle in your custody and possession at the auto body repair shop you owned 290 Auto Body, Inc., which was located in Worcester, Massachusetts.¹

You were first notified to appear before the Board on March 13, 2023, and requested a postponement of the hearing on that date, asserting that you were filing an appeal of Judge Reardon's decision and your request was allowed by the Board. Thereafter, a check of the records on file with the Worcester Superior Court disclosed that you did not file an appeal of Judge Reardon's decision and the matter was rescheduled before the Board for the meeting on May 18, 2023. Just before the Board meeting, you requested a postponement of the hearing, your request was allowed, and the matter was rescheduled to July 12, 2023. Just before the hearing on July 12, 2023, you again requested a postponement of the hearing, which was allowed by the Board and the hearing was finally held on October 23, 2023.

You were notified by the Board, as appeared on the Board's notice of meeting and agenda for the October 23, 2023, Board meeting, to appear for the following reasons:

¹ According to records on file with the Office of the State Secretary you filed the articles of organization as president, secretary, treasurer, and director in 2008, and are listed as president, secretary, treasurer, CEO, CFO, and Director up to February 2023.

Hearing by the Board to review the potential revocation of the motor vehicle damage appraiser license of Justin Forkuo based on the findings that were made against Mr. Forkuo as the owner of defendant 290 Auto Body, Inc. ("290") in the case of Preferred Mutual Insurance Company v. 290 Auto Body, Inc. Civil Action 18-01813, (Worcester Superior Court). The records on file with the Worcester Superior Court disclose that the "Order for Judgement" and findings were entered on September 15, 2022, a final judgment was entered on February 21, 2023, and no appeal was filed by the defendant. Pursuant to Massachusetts law, an appeal must be filed within 30 days of the entry of final judgment.

The hearing will focus on the following final findings made by Massachusetts Associate Superior Court Justice A. Gavin Reardon Jr. in which Associate Justice Reardon entered a final judgment and found that Mr. Forkuo created a fraudulent auto damage invoice and engaged in fraud and deceit in the appraisal of damage of a motor vehicle:

...
In short, I find that Forkuo was unable to provide any paperwork or explanation justifying the invoices he sent in this matter and that the invoices were excessive. I also find that he created the billing and email system he used in this matter for the express purpose of frustrating insurance carriers like the plaintiff, with the intent of forcing them to pay excessive and unwarranted fees in order to avoid accrual of storage charges.

...

RULINGS OF LAW

1. Fraud and Deceit.

...

Finally, the invoices and demands 290 sent to Preferred did not accurately reflect work performed or charges incurred by 290. 290's "Direction to Pay" to Preferred indicated that 290 was due payment for, among other things, work dismantling the Honda, a gate fee, a hazardous waste fee, a blueprint fee, an administration fee, and a collision access fee. However, Forkuo was unable to specifically relate the itemized costs in the "Direction to Pay" to the Honda. As Forkuo failed to maintain accurate records of what work was actually performed on the Honda, and as I credit McKeen's testimony that the reasonable cost to appraise the Honda was less than \$100, 290 grossly overstated the amounts due from Preferred, seeking payment for at least some work not actually performed by 290 and not actually due from Preferred. Further, 290's repeated demands for reimbursement of attorney's fees by Preferred were fraudulent as 290 failed to demonstrate that it actually incurred those attorney's fees for which it sought reimbursement from Preferred.

Taking these findings together, 290 knowingly made multiple false representations of material fact to Preferred for the purpose of inducing Preferred to pay more to 290 than was actually due...

...

Such conduct violates M.G.L. c. 26 § 8G which provides in relevant part:

...
The board, after due notice and hearing, shall revoke any license issued by it and cancel the registration of any person who pleads guilty to or is convicted of a fraudulent automobile damage report as a result of a court judgment and said license shall not be reinstated or renewed nor shall said person be relicensed.
....

(Emphasis added).

The Board will also review whether such conduct violated the Board's Regulation 212 CMR 2.02 which provides:

- (8) Revocation or Suspension of a License. The Board may revoke or suspend any appraiser's license at any time for a period not exceeding one year if the Board finds, after a hearing, that the individual is either not competent or not trustworthy or has committed fraud, deceit, gross negligence, misconduct, or conflict of interest in the preparation of any motor vehicle damage report. The following acts or practices by any appraiser are among those that may be considered as grounds for revocation or suspension of an appraiser's license:
- (a) material misrepresentations knowingly or negligently made in an application for a license or for its renewal;
 - (b) material misrepresentations knowingly or negligently made to an owner of a damaged motor vehicle or to a repair shop regarding the terms or effect of any contract of insurance;
 - (c) the arrangement of unfair and or unreasonable settlements offered to claimants under collision, limited collision, comprehensive, or property damage liability coverages;
 - (d) the causation or facilitation of the overpayment by an insurer of a claim made under collision, limited collision, comprehensive, or property damage liability coverage as a result of an inaccurate appraisal;
 - (e) the refusal by any appraiser who owns or is employed by a repair shop to allow an appraiser assigned by an insurer access to that repair shop for the purpose of making an appraisal, supervisory reinspection, or intensified appraisal;
 - (f) the commission of any criminal act related to appraisals, or any felonious act, which results in final conviction;
 - (g) knowingly preparing an appraisal that itemizes damage to a motor vehicle that does not exist; and
 - (h) failure to comply with 212 CMR 2.00.

At the hearing, Attorney Morris stipulated to a copy of Judge Reardon's decision, the decision was submitted as an exhibit, and marked as Exhibit "A" (a copy of Judge Reardon's decision is hereto attached and incorporated into this letter). Attorney Morris was allowed to present an argument on your behalf. In sum, Attorney Morris argued that the decision made by Judge Reardon could not be used against you, because you were not named individually as a defendant in the case and the only defendant in the case was the company that you owned, 290 Auto Body, Inc. Notwithstanding that defense, one reason Preferred Mutual Insurance Company would not have named you individually as a defendant is that the payments were made to the

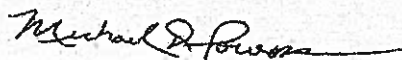
corporate entity that you created, 290 Auto Body, Inc. and not directly in your name. In rebuttal it was pointed out that Judge Reardon's "FINDINGS OF FACTS" and "CONCLUSIONS OF LAW" found that you testified as the president and owner of 290 Auto Body, Inc., that you were a licensed motor vehicle damage appraiser, and that you repeatedly engaged in fraud, deceit, and misrepresentations to the detriment of Preferred Mutual Insurance Company, which relied on your fraudulent, deceitful misconduct and misrepresentations and paid substantial sums of money under the insurance policy for the damaged motor vehicle that were not due to you (as the president and owner of 290 Auto Body, Inc), for the repair and custody of the damaged motor vehicle.

The fraud you committed, as found by Judge Reardon, violated the ADALB's enabling act, M. G. L. c. 26, § 8G and mandates the permanent revocation of your motor vehicle damage appraiser license. In addition, each of your misrepresentations violated the ADALB's Regulation, 212 CMR 2.02(8) "The Board may revoke or suspend any appraiser's license at any time for a period not exceeding one year if the Board finds, after a hearing, that the individual is either not competent or not trustworthy or has committed fraud, deceit, gross negligence, misconduct, or conflict of interest in the preparation of any motor vehicle damage report" and subsection (d) "the causation or facilitation of the overpayment by an insurer of a claim made under collision, limited collision, comprehensive, or property damage liability coverage as a result of an inaccurate appraisal." Each act of fraud, deceit and misrepresentation you committed is also a violation of the Board's Regulation, which provides for the suspension of your license for up to one year. According to Judge Reardon's decision, you committed at least two fraudulent acts and three acts of deceitful and false misrepresentation. For example, Judge Reardon found that you fraudulently demanded and received from Preferred Mutual Insurance Company \$9,250 for repair and custody of the damaged motor vehicle, when in fact you were only entitled to \$1,050.

At the conclusion of the discussion, at the Board meeting, a motion was made by Board Member Peter Smith to revoke your motor vehicle damage appraiser license based on the violation of the Board's enabling act and Regulation as listed in the Notice of Meeting and agenda for the Board meeting and the "FINDINGS OF FACTS" and "CONCLUSIONS OF LAW" made by Judge Reardon (in the attached decision). The motion was seconded by Board Member Vicky W. Ye, the motion was passed by a vote of 3-2, with Board Members Peter Smith and Vicky Ye and Chairman Michael Donovan voting yes, to break a tie, with Board Members Carl Garcia and William Johnson voting no.

Therefore, your Massachusetts motor vehicle damage appraiser license is permanently revoked by the Board, and you are to turn in the license to Robert Hunter of the Producer Licensing Unit for the Division of Insurance, 1000 Washington Street, Boston, Massachusetts.

On behalf of the Board,



Michael D. Powers
Legal Counsel for the Auto Damage Appraiser Licensing Board

CC: Attorney Jacob P. Morris via email: <jmorris@rrwlaw.com>
Mr. Robert Hunter, Producer Licensing Unit Division of Insurance

Chairman Michael Donovan and the Members of the Board
Attachment

EXHIBIT B

Jacob P. Morris

From: Powers, Michael D (DOI) <michael.d.powers@mass.gov>
Sent: Tuesday, January 23, 2024 4:45 AM
To: Jacob P. Morris
Subject: RE: Justin Forkuo - Petition for Rehearing/Reconsideration

Dear Attorney Morris:

Among other things, your request was filed too late. The final decision was rendered on October 23, 2023, at the Board meeting you attended with your client and as you requested you and your client were provided with a written confirmation of the Board's decision on October 30, 2023. Please see G.L. c. 30A § 14.

Michael D. Powers
Counsel to the Commissioner
Division of Insurance
857-286-6833 (Cell)
617-521-7419 (Work)

If you are not the intended recipient of this message, please notify the sender that you have received this message, and delete the message.

From: Jacob P. Morris <jmorris@rrwlaw.com>
Sent: Tuesday, December 12, 2023 4:34 PM
To: Powers, Michael D (DOI) <michael.d.powers@mass.gov>
Subject: Justin Forkuo - Petition for Rehearing/Reconsideration

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Attorney Powers,

Please see attached correspondence.
Thank you.

Jacob P. Morris, Esquire
RUBIN & MORRIS, P.C.
333 Park Avenue
Worcester, MA 01610
Tel: (508) 791-5541
Fax: (508) 799-0968

VISIT THE RUBIN & MORRIS, P.C. WEBSITE AT: WWW.RRWLAW.COM

CONFIDENTIALITY NOTICE: This communication, together with any attachments or links contained herein, may contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the sender or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution

CIVIL ACTION COVER SHEET

DOCKET NUMBER

Trial Court of Massachusetts
The Superior Court

COUNTY

Plaintiff

Justin Forkuo

Defendant:

Auto Damage Appraiser Licensing

ADDRESS:

1 Stowell St
Worcester, MA 01606

ADDRESS:

1000 Washington St
Suite 810
Boston, MA 02118

Plaintiff Attorney:

Jacob Morris

Defendant:

ADDRESS:

333 Park Ave
Worcester, MA

ADDRESS:

BBO:

652275

TYPE OF ACTION AND TRACK DESIGNATION (see instructions section below)

CODE NO.

E02

TYPE OF ACTION (specify)

Appeal From Agency

TRACK

X

HAS A JURY CLAIM BEEN MADE?

☐ YES☒ NO

*If "Other" please describe:

Is there a claim under G.L. c. 93A?

☐ YES☒ NO

Is there a class action under Mass. R. Civ. P. 23?

☐ YES☒ NO

STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A

The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff's counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

A. Documented medical expenses to date

1. Total hospital expenses
2. Total doctor expenses
3. Total chiropractic expenses
4. Total physical therapy expenses
5. Total other expenses (describe below)

Subtotal (1-5):

B. Documented lost wages and compensation to date

C. Documented property damages to date

D. Reasonably anticipated future medical and hospital expenses

E. Reasonably anticipated lost wages

F. Other documented items of damages (describe below)

TOTAL (A-F):

G. Briefly describe plaintiff's injury, including the nature and extent of injury:

CONTRACT CLAIMS

☐ This action includes a claim involving collection of a debt incurred pursuant to a revolving credit agreement. Mass. R. Civ. P. 8.1(a).

Item #	Detailed Description of Each Claim	Amount
1.		
Total		

Signature of Attorney/Unrepresented Plaintiff: X

Date: 2-21-24

RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.

CERTIFICATION PURSUANT TO SJC RULE 1:18

I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.

Signature of Attorney/Unrepresented Plaintiff: X

Date: 2-21-24

CIVIL TRACKING ORDER
(STANDING ORDER 1- 88)

DOCKET NUMBER
2484CV00501

Trial Court of Massachusetts
The Superior Court



CASE NAME:

Forkuo, Justin vs. Auto Damage Appraiser Licensing Board

John E. Powers III, Acting Clerk of Court
Suffolk County Civil

TO: Jacob P Morris, Esq.
Rubin and Morris, P.C.
333 Park Ave
Worcester, MA 01610

COURT NAME & ADDRESS

Suffolk County Superior Court - Civil
Suffolk County Courthouse, 12th Floor
Three Pemberton Square
Boston, MA 02108

TRACKING ORDER - X - Accelerated

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

STAGES OF LITIGATION

DEADLINE

	SERVED BY	FILED BY	HEARD BY
Service of process made and return filed with the Court		05/22/2024	
Response to the complaint filed (also see MRCP 12)		02/21/2025	
All motions under MRCP 12, 19, and 20			
All motions under MRCP 15			
All discovery requests and depositions served and non-expert depositions completed			
All motions under MRCP 56			
Final pre-trial conference held and/or firm trial date set			
Case shall be resolved and judgment shall issue by			

The final pre-trial deadline is not the scheduled date of the conference. You will be notified of that date at a later time.
Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.
This case is assigned to

DATE ISSUED

02/22/2024

ASSISTANT CLERK

Christine M Hayes

PHONE

(617)788-8141